UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P O Box 1450
Alexandria, Virginia 22313-1450
www uspto gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,353	08/19/2003	Patrick Stamm	60027.0199USU1/BS030095	3813

23552 7590 07/03/2008
MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER	
KARDOS, NEIL R	

ART UNIT	PAPER NUMBER
3623	

MAIL DATE	DELIVERY MODE
07/03/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	10/643,353	STAMM ET AL.
	Examiner	Art Unit
	Neil R. Kardos	3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 March 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12 and 14-25* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12 and 14-25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1. This is a **FINAL** Office action on the merits in response to Applicant's remarks and amendments filed on March 27, 2008. Claims 1-6, 9-12, and 14-25 have been amended. Claim 13 has been cancelled. Currently, claims 1-12 and 14-25 are pending and have been examined.

Remarks

2. Specification

Examiner acknowledges Applicant's amendment to the specification to correct an informality.

3. Claim Objections

Applicant's amendments and arguments are sufficient to overcome the claim objections set forth in the previous Office action. Therefore, these objections are withdrawn.

4. Rejections under 102(e) and 103(a)

Applicant's arguments and amendments are not sufficient to overcome the prior art rejections set forth in the previous Office action. Thus, these rejections stand. See "Response to Arguments" section, below.

Response to Arguments

5. Applicant's arguments filed on March 27, 2008 have been fully considered but they are not persuasive. Specifically, Applicant argues that Richman does not disclose *querying a*

database with the feedback analysis information associated with the survey subject and the at least one performance category for coaching comments. Examiner respectfully disagrees.

In column 18, beginning at line 15, Richman discloses that *searches* can be performed on the information contained within the Evaluation System *database*. "The Evaluation System allows for *searching* by function, service line, geographic area, *competency*, *evaluation score*, and all other data items that are stored within the *database*." (emphasis added). For example, the database can be queried to retrieve "all of the employees within a certain workgroup *who have received poor scores in a particular technology competency area*." (emphasis added). Thus, Richman discloses querying the Evaluation System database with information associated with the survey subject and the performance category.

The Evaluation System of Richman can also be configured to retrieve goals (i.e. coaching comments) based on the input. For example, the Evaluation System may be configured to add goals (i.e. coaching comments) to "Goal Setting Forms" for a subset of individuals under evaluation. (see col. 13: ln. 5-10). These goals come from a global list (i.e. database) of goals (see e.g. col. 13: ln. 1-5; col. 11: ln. 62-63). Richman gives an example subset of "all employees in the word processing department." (see id.) When coupled with the capabilities of the Evaluation System discussed above (disclosed in col. 18: ln. 17-25), it is within the scope of Richman's invention to automatically add goals (coaching comments) to the Goal Setting Forms of employees who have received poor scores in a particular competency area (see e.g. col. 18: ln. 23-25, disclosing targeting poorly performing employees for specialized training). These goals (or coaching comments) can then be automatically imported into an employee's evaluation scorecard (see col. 16: ln. 5-7; see also col. 12: ln. 40-49).

To summarize, Richman teaches *querying a database* (see col. 18: ln. 17-20; col. 13: ln. 1-5; col. 11: ln. 62-63; col. 12: ln. 40-49; "Evaluation System") *with the feedback analysis information associated with the survey subject and the at least one performance category* (see col. 18: ln. 17-20; col. 13: ln. 5-10) *for coaching comments* (see col. 13: ln. 1-10; col. 18: ln. 23-25).

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-12, 14-17, 19, 21, and 23-25 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. patent number 6,754,874 to Richman ("Richman").

Claim 1: Richman discloses a method for aggregating and reporting customer feedback information comprising:

- conducting a survey by asking at least one survey question about at least one performance category associated with a survey subject to at least one survey participant (see generally column 3: lines 43-62; column 5: lines 43-46; column 6: lines 20-24; figures 4 and 6; see figure 1, depicting participants evaluating employees; figure 9, depicting survey questions with multiple possible responses);

- collecting responses from the at least one survey participant in response to the at least one survey question (see id. above);
- determining performance scores for the at least one performance category (see figure 4: items 430-440, depicting different scores for different core competency areas; column 7: lines 30-36; column 8: lines 14-35; column 9: lines 10-15);
- assembling feedback analysis information, wherein the feedback analysis information comprises the performance scores and performance comments for the at least one performance category from the at least one survey participant about the performance of the survey subject (see figure 4: items 450-460, depicting performance comments on a scorecard; figure 6: item 640; figure 9: item 930; column 7: lines 30-36 and 52-59; column 9: lines 10-15);
- querying a database with the feedback analysis information associated with the survey subject and the at least one performance category for a coaching comment (see "Response to Arguments" section, above; column 7: lines 61-64, disclosing importing goals from a database; column 7: lines 65-67 and column 8: lines 1-13, disclosing importing expectations and training information from a database; column 11: lines 61-67; column 12: lines 1-24; column 20: lines 30-47; column 18: lines 17-20; column 13: lines 1-10; column 11: lines 62-63; column 12: lines 40-49);
- determining the coaching comment for the at least one performance category based on the feedback analysis information for the at least one performance

category (see figure 4: items 450-460, depicting suggestions for improvement; figure 6: item 640; column 7: lines 52-64; column 8: lines 5-13; column 10: lines 16-17); and

- preparing a performance survey subject scorecard containing a performance score and coaching comment for the at least one performance category (see figures 4 and 6).

Claim 2: Richman discloses wherein the survey subject scorecard further contains the performance comments received from the at least one survey participant for the at least one performance category (see figure 6: items 620 and 640, depicting displaying different comments in block 640 depending on which category is selected in block 620; column 15: lines 1-3).

Claim 3: Richman discloses prior to determining performance scores for each of the one or more performance categories, categorizing responses to each of the one or more survey questions by survey subject and by one or more performance categories associated with the survey subject (see figure 4: items 430-440 and figure 6: item 620, depicting categorizing responses to different performance categories; column 16: lines 39-67 and column 17: lines 1-12, disclosing sorting responses by employee).

Claim 4: Richman discloses a method whereby determining performance scores for each of the one or more performance categories includes analyzing a set of survey responses collected from one or more survey participants responsive to questions about the performance of the

survey subject (see figure 4: items 420-440, depicting responses from a feedback receiver "FR" and feedback provider "FP" at items 430-440 and overall expectations at item 420; column 10: lines 12-15, wherein the rating can be changed after considering existing ratings).

Claim 5: Richman discloses a method further comprising comparing the performance scores for each of the one or more performance categories with performance scores for the one or more performance categories from a prior survey period (see column 15: lines 3-10; column 16: lines 25-38).

Claim 6: Richman discloses a method further comprising comparing the performance scores for each of the one or more performance categories with performance scores for the one or more performance categories associated with a group of survey subjects (see column 18: lines 5-14, disclosing comparing employee scores in a peer comparison).

Claim 7: Richman discloses a method further comprising forwarding the survey subject performance scorecard to a survey subject supervisor (see figure 3: items 315-320 and 330-335; figure 4: item 480; column 6: lines 6-9; column 8: lines 54-67 and column 9: lines 1-26).

Claim 8: Richman discloses a method further comprising posting the survey subject performance scorecard to an internet-based web page (see column 6: items 6-9; column 8: lines 54-67 and column 9: lines 1-26; column 16: lines 38-48).

Claim 9: Richman discloses after collecting responses from each of the one or more survey participants in response to each of the one or more survey questions, storing the responses in a survey results database (see id. above).

Claim 10: Richman discloses a method further comprising preparing a summary report for each survey subject containing responses to each of the one or more survey questions from each of the one or more survey participants (see column 17: lines 54-67 and column 18: lines 5-15).

Claim 11: Richman discloses a method further comprising forwarding the summary report to the survey subject supervisor (see id. above; column 16: lines 38-67 and column 17: lines 1-12, disclosing allowing supervisors to access the reports; column 9: lines 38-55).

Claim 12: Richman discloses a method prior to categorizing responses to each of the one or more survey questions by survey subject and by one or more performance categories associated with a the survey subject, querying a survey results database for responses for each of the one or more survey participants in response to each of the one or more survey questions (see column 16: lines 38-65, disclosing using a pull-down menu to view scorecards from different survey participants; column 20: lines 30-47).

Claim 14: Richman discloses prior to conducting a survey by asking one or more survey questions about one or more performance categories associated with a survey subject to each of

one or more survey participants, identifying one or more survey participants (see column 3: lines 43-62).

Claim 15: Richman discloses a method whereby identifying one or more survey participants includes identifying a survey sampling group based on the survey subject about which the survey is to be conducted (see column 6: lines 1-17).

Claim 16: Richman discloses a method further comprising obtaining contact information for each of the one or more survey participants (see figure 4: item 410; figure 9: item 910).

Claim 17: Richman discloses a method further comprising conducting the survey by live interview with each of the on or more survey participants (see column 12: lines 56-67 and column 13: lines 1-67 and column 14: lines 1-54).

Claim 19: Richman discloses a method further comprising conducting the survey by Internet-based interview session with each of the on or more survey participants (see column 8: lines 54-67 and column 9: lines 1-26; column 16: lines 38-48).

Claim 21: Richman discloses a method whereby the survey subject is an employee (see column 3: lines 43-62).

Claim 23: Richman discloses a method whereby the survey subject is a service (see figure 9).

Claim 24: Richman discloses a method for creating a customer feedback performance scorecard, comprising:

- surveying a group of survey participants regarding the performance of a survey subject in association with one or more performance categories (see generally column 3: lines 43-62; column 5: lines 43-46; column 6: lines 20-24; figures 4 and 6; see figure 1, depicting participants evaluating employees; figure 9, depicting survey questions with multiple possible responses);
- collecting responses from each survey participant (see id. above);
- based on survey participant responses, determining performance scores for each of the one or more performance categories (see figure 4: items 430-440, depicting different scores for different core competency areas; column 7: lines 30-36; column 8: lines 14-35; column 9: lines 10-15);
- assembling feedback analysis information, wherein the feedback analysis information comprises the performance scores and performance comments for each of the one or more performance categories from each survey participant about the performance of the survey subject (see figure 4: items 450-460, depicting performance comments on a scorecard; figure 6: item 640; figure 9: item 930; column 7: lines 30-36 and 52-59; column 9: lines 10-15);

- querying a database with the feedback analysis information associated with the survey subject and the at least one performance category for a coaching comment (see "Response to Arguments" section, above; column 7: lines 61-64, disclosing importing goals from a database; column 7: lines 65-67 and column 8: lines 1-13, disclosing importing expectations and training information from a database; column 11: lines 61-67; column 12: lines 1-24; column 20: lines 30-47; column 18: lines 17-20; column 13: lines 1-10; column 11: lines 62-63; column 12: lines 40-49);
- tailoring a coaching comment for each of the one or more performance categories based on performance scores and assembled performance comments and based on the feedback analysis information with performance scores and assembled performance comments associated with prior surveys (see figure 4: items 450-460, depicting suggestions for improvement; figure 6: item 640; column 7: lines 52-64; column 8: lines 5-13; column 10: lines 16-17); and
- preparing a performance survey subject scorecard containing a performance score and coaching comment for each of the one or more performance categories (see figures 4 and 6).

Claim 25: Richman discloses a system for creating a customer feedback performance scorecard, comprising:

- a customer service research center operative to:

- survey a group of survey participants regarding the performance of a survey subject in association with one or more performance categories (see generally column 3: lines 43-62; column 5: lines 43-46; column 6: lines 20-24; figures 4 and 6; see figure 1, depicting participants evaluating employees; figure 9, depicting survey questions with multiple possible responses); and
- collect responses from each survey participant (see id. above); and
- a customer feedback performance scorecard engine operative to:
- determine performance scores for each of the one or more performance categories based on survey participant responses (see figure 4: items 430-440, depicting different scores for different core competency areas; column 7: lines 30-36; column 8: lines 14-35; column 9: lines 10-15);
- assemble feedback analysis information, wherein the feedback analysis information comprises the performance scores and performance comments for each of the one or more performance categories from each survey participant about the performance of the survey subject (see figure 4: items 450-460, depicting performance comments on a scorecard; figure 6: item 640; figure 9: item 930; column 7: lines 30-36 and 52-59; column 9: lines 10-15);
- query a coaching comments database with the feedback analysis information for coaching comments related to performance scores and performance comments (see "Response to Arguments" section, above; column 7: lines 61-64, disclosing importing goals from a database; column 7: lines 65-67 and column 8: lines 1-13, disclosing importing expectations and training

information from a database; column 11: lines 61-67; column 12: lines 1-24; column 20: lines 30-47; column 18: lines 17-20; column 13: lines 1-10; column 11: lines 62-63; column 12: lines 40-49);

- tailor a coaching comment for each of the one or more performance categories based on feedback analysis information and based on a comparison of performance scores and assembled performance comments with performance scores and assembled performance comments associated with prior surveys (see figure 4: items 450-460, depicting suggestions for improvement; figure 6: item 640; column 7: lines 52-64; column 8: lines 5-13; column 10: lines 16-17); and
- to prepare a performance survey subject scorecard containing a performance score and coaching comment for each of the one or more performance categories (see figures 4 and 6).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 18, 20, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richman as applied above, and further in view of U.S. patent number 6,381,744 to Nanos et al ("Nanos").

Claim 18: Richman does not explicitly disclose a method further comprising conducting the survey by interactive voice response session with each of the on or more survey participants.

Nanos teaches recording verbal survey responses via a microphone (see column 9: lines 51-65).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the verbal survey response means taught by Nanos to gather the survey data in the invention of Richman. One of ordinary skill in the art would have been motivated to do so in order to allow the user to respond to open-ended survey questions (see Nanos: column 9: lines 51-53).

Claim 20: Richman does not explicitly disclose a method further comprising conducting the survey via a survey kiosk with each of the on or more survey participants.

Nanos teaches this limitation (see title; abstract; column 5: lines 42-60).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the means taught by Nanos to gather the survey data in the invention of Richman. One of ordinary skill in the art would have been motivated to do so in order to provide an automated, reprogrammable means of collecting survey data at a specific location (see Nanos: column 1: line 9 through column 4: line 46).

Claim 22: Richman does not explicitly disclose a method whereby the survey subject is a product.

Nanos teaches this limitation (see column 10: lines 1-22)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the invention of Richman to evaluate products as taught by Nanos. One of ordinary skill in the art would have been motivated to do so in order to test products (see Nanos: column 1: lines 9-15).

Additional Prior Art

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- U.S. patent number 6,970,831 to Anderson et al, directed to a method for evaluating customer service.
- U.S. patent number 7,065,494 to Evans, directed to a system and method for rating customer service.
- U.S. pre-grant publication number 2004/0088177 to Travis et al, directed to a method and system for measuring and managing employee performance.
- U.S. pre-grant publication number 2004/0205522 to Harrison, directed to customer service evaluation.
- U.S. pre-grant publication number 2003/0167197 to Shoemaker et al, directed to a system and method for measuring and managing customer relationships.
- U.S. pre-grant publication number 2003/0041056 to Bossemeyer et al, directed to acquiring and processing customer feedback.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil R. Kardos whose telephone number is (571) 270-3443. The examiner can normally be reached on Monday through Friday from 9 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Van Doren can be reached on (571) 272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Neil R. Kardos
Examiner
Art Unit 3623

NRK
7/1/08
/Jonathan G. Sterrett/
Primary Examiner, Art Unit 3623